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RICHARD BAUER, ESQ.
KATTEN MUCHIN ZAVIS ROSENMAN
525 WEST MONROE STREET
CHICAGO, IL 60661-3693

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MAY 23 2007

OFFICE OF PETITIONS

In re Patent No. 6,824,035 :
Issue Date: November 30, 2004 :
Application No. 09/582,890 :
Filed: July 7, 2000 :
Attorney Docket No. N/A :

ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed January 23, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **DISMISSED**.

Petitioner states that the original Letters Patent was never received.

The Office follows the guidelines set forth in MPEP § 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is a strong presumption that the Office action (Letters Patent) was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Letters Patent was not in fact received. In this regard, the showing required to establish the failure to receive the Letters Patent must consist of the following:

1. a statement from practitioner stating that the Letters Patent was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received; and
3. a copy of the docket record where the non-received Letters Patent would have been entered had it been received must be attached to and referenced in the practitioner's statement.

The petition is not accompanied by the proper evidence required to establish non-receipt of the original Letters Patent. In this regard, the petition lacks item 3 above. Office records reflect that

the Letters Patent was mailed to the address of record at the time; namely, Richard Bauer, Esq.; Katten Muchin Zavis Rosenman; 525 West Monroe Street; Chicago, IL 60661-3693. The evidence submitted does not establish non-receipt of the Letters Patent at that address.

It is noted that petitioner submitted docket records for the above-noted patent. However, the docket records necessary to establish non-receipt must include a copy of the list of all papers received in the practitioner's office between November 30, 2004, the date the Letters Patents was mailed, and December 3, 2004, the date of receipt of the soft copies.

In view of the above, the petition for issuance of a duplicate Letters Patent under 37 CFR 1.181 cannot be granted.

If petitioner cannot submit the required evidence to establish non-receipt of the original Letters Patent or simply does not wish to, petitioner may request reconsideration of the petition under 37 CFR 1.182 requesting issuance of a duplicate Letters Patent and pay the remaining balance of \$270 (\$400 required petition fee - \$130 previously submitted).

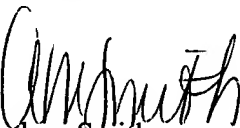
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
 Attn: Office of Petitions

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions